

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

MACA.No. 1291 of 2011 ()

OPMV.793/2006 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, IRINJALAKUDA.

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APPELLANT/PETITIONER:

**V.M. RAMLU @ RAMLA IBRAHIM, W/O.IBRAHIM,
KONAKATTUPARAMBIL HOUSE, ATHANI DESOM,
ERIYAD VILLAGE, MADAVANA P.O.,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.**

**BY ADVS.SRI.P.V.BABY,
SRI.A.N.SANTHOSH.**

RESPONDENTS/RESPONDENTS:

- 1. ESSA P.K., S/O.KUNJU VARU,
PAMBINEZHATH HOUSE, METHALA P.O.,
KODUNGALLUR-680 664.**
- 2. YOUSEFF, S/O.ESSA, PAMBINEZHATH HOUSE,
NEAR WEST OF SAMAJAM, METHALA P.O.,
KODUNGALLUR-680 664.**
- 3. ORIENTAL INSURANCE CO. LTD.,
KODUNGALLUR-680 664.**
- 4. K.O. JOSEPH, KALATHIL HOUSE,
KOTTAPURAM P.O., KODUNGALLUR-680 584.**

R3 BY ADV. SRI.VPK.PANICKER.

**THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD
ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

P.B.SURESH KUMAR, J.

M.A.C.A.No.1291 of 2011

Dated this the 13th day of July, 2015

JUDGMENT

The claimant in a petition for compensation before the Motor Accidents Claims Tribunal has come up in this appeal challenging the quantum of compensation granted by the Tribunal.

2. The accident took place on 15.7.2005. The claimant was aged 53 years at the time of accident. A sum of Rs.75,000/- was claimed in the petition by way of compensation. The Tribunal, on an appraisal of the materials on record, found that the claimant is entitled to only a sum of Rs.54,305/- and accordingly, an award was passed for the said amount. As the vehicle involved in the accident was covered by a valid insurance policy, the

insurer was directed to satisfy the award. The claimant is aggrieved by the said award.

3. Heard the learned counsel for the claimant and the learned counsel for the insurer.

4. Ext.A3 is the wound certificate produced by the claimant before the Tribunal. Ext.A3 certificate was issued from the Medicare hospital, Kodungallur. From Ext.A3, the Tribunal found that the claimant sustained a lacerated wound over the right parieto-occipital region of the scalp. The Tribunal also found that the claimant suffered sub arachnoid hemorrhage in the accident. It is seen that the claimant was discharged from Medicare Hospital, Kodungallur on 19.7.2005 and on the same day she was admitted at Lourdes Hospital, Ernakulam. It is also seen that she was discharged from Lourdes Hospital, Ernakulam on 27.7.2005. Ext.A7 is the disability certificate issued by Dr.P.V.Sugathan, Neuro Surgeon, attached to Medicare Hospital, Kodungallur. In Ext.A7, the doctor assessed the

disability of the claimant at 10%. The Tribunal has not accepted Ext.A7 certificate in toto. Instead, the Tribunal held, on the facts and circumstances of the case, that the disability of 5% can be accepted and accordingly granted a sum of Rs.16,500/- towards compensation for continuing disability by reckoning the monthly income of the claimant at Rs.2,500/- and applying the multiplier '11'.

5. The claimant was the Head Mistress of Government Lower Primary School, Kodungallur at the time of the accident. Ext.A9 is the salary certificate issued to the claimant. It is seen from Ext.A9 that the claimant was drawing a monthly salary of Rs.15,580/- at the time of accident. In the circumstances, according to me, the notional income of the claimant for the purpose of determining the compensation payable to her for continuing disability, should have been reckoned by the Tribunal at Rs.4,500/-. Therefore, the claimant is entitled to a further sum of Rs.13,200/- on that head. Despite the head injury

sustained by the claimant, only a sum of Rs.7,000/- is seen granted to the claimant towards compensation for pain and sufferings. According to me, the compensation granted to the claimant towards pain and sufferings is highly inadequate. Therefore, the claimant is entitled to a further sum of Rs.8,000/- on that head. As pointed out earlier, though the claimant had undergone inpatient treatment in two hospitals for a total period of 14 days, only a sum of Rs.1,400/- was awarded towards bystander's expenses. In so far as the accident took place in the year 2005, according to me, the bystander's expenses should have been granted by the Tribunal at Rs.250/- per day. Therefore, the claimant is entitled to a further sum of Rs.2,100/- towards compensation for bystander's expenses. No compensation is seen granted to the claimant towards extra nourishment. According to me, the claimant is entitled to a minimum of Rs.1,500/- towards extra nourishment also. Thus, the claimant is entitled to a further sum of Rs.24,800/- towards

compensation.

6. It is seen that interest has been granted by the Tribunal for the compensation awarded only at the rate of 7% per annum. It is now settled that the claimant in a proceedings of this nature is entitled to interest for the compensation awarded at the rate of 9% per annum.

In the result, the appeal is allowed in part. The compensation granted by the Tribunal is modified granting a further sum of Rs.24,800/- to the claimant by way of compensation. Needless to say, the claimant will be entitled to interest for the whole amount of compensation at the rate of 9% per annum.

P.B.SURESH KUMAR, JUDGE.

smm